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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,180	05/09/2002	Jean-Louis Mercier	08641-021001	6190
7590 04/20/2004			EXAMINER	
Fish & Richardson 225 Franklin Street Boston, MA 02110-2804			VARGOT, MATHIEU D	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	Application No. 10/009,180	Applicant(s) MERCIER, JEAN-LOUIS	
	Examiner Mathieu D. Vargot	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 53-75 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/29, 6/13, 5/27</u> | 6) <input type="checkbox"/> Other: _____  |

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1. Claims 67 and 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 67 and 68 are indefinite in that the meaning of "a position...being adjusted" is uncertain. The specification supports the aspect of the molds being positioned a distance away from each other—and staying that distance away-- but it is not really clear that is what is being specified. It should be clearly set forth in claim 67 that the 1mm recited is the distance between the molds. In claim 68, it is unclear how the second mold can contact the periphery of the first mold and yet define a mold cavity between the two molds. Clarification is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 53, 55, 56, 59, 62, 64, 66, 69-71, 73 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by Schuler (col. 1, line 20; col. 3, lines 43-46; col. 5, lines 53-57; col. 8, lines 46-53).

Schuler discloses the instant process for molding a non-circular lens (the disclosure of the rubber spacer having a non-circular cross-section at col. 5, lines 53-57 inherently would mean that the molds would also have to be non-circular, otherwise they would not fit on the spacer/gasket) adapted to a wearer's prescription and such that the lens would not require any grinding or polishing (see disclosure at col. 3, lines 43-46—hence, the

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lens is submitted to have been molded in the desired shape, which inherently would mean the shape of the frame which the lens would be fitted in) by supplying the necessary non-circular molds, molding and curing a setting material between the molds and removing the cured lens from the molds. At column 8, lines 46-53, Schuler discloses curing the lens within the mold assembly, removing the lens from the mold and annealing same for a period of time to remove stresses. It is submitted that this inherently includes the aspects of performing a partial curing, removal of mold positioning devices after the partial curing (ie, the rubber spacer/gasket) and a total curing, since annealing is quite commonly used to complete the curing of a lens. Ie, not only would annealing remove stresses, but it would inherently advance the degree of cure while doing so. The molds (ie, second mold) are positioned in a horizontal manner.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 54, 57, 58, 60, 61, 63, 65, 67, 68, 72 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuler.

Schuler discloses the basic claimed method as set forth in paragraph 2, supra, the applied reference essentially lacking a teaching of trimming the molds to provide the non-circular shape, the length of the curing steps, the use of irradiation for the curing, thermal shock for the release and the exact thickness of the mold cavity. Certainly,

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circular molds are most common in the lens molding art and it would have been within the skill level of the art to trim or mill such a conventional mold so that it would be of the desired non-circular shape. The additional aspects found lacking in Schuler are submitted to be quite well known in the art and would have been obvious modifications to the process therein to facilitate producing the lens. For instance, irradiation is widely used as such is generally faster than thermal curing. Using irradiation in lieu of the heating in Schuler for the curing would clearly have reduced the curing time. Thermal shock for release of lens from molds is well known and would have been an obvious modification to the process of the applied reference to facilitate the release of the lens without damaging it. Finally, the thickness of the mold cavity would have been an obvious feature dependent on the thickness of the desired lens.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pickering press molds glass in non-circular shapes. Japanese Patent 7-227882 makes rectangular lenses by injection molding.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on 71 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.


Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
April 17, 2004

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732  
4/17/04